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Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
And the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

STEVEN E. LEBER CHARITABLE
REMAINDER UNITRUST; STEVEN LEBER in
his capacity as Trustee, personal representative of
the Estate of Marion Leber, and individually; and
the ESTATE OF MARION LEBER,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-05121 (SMB)

**STIPULATION AND ORDER FOR
VOLUNTARY DISMISSAL OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, by and through his counsel, Baker & Hostetler LLP, and Defendants,¹ by and through their counsel, Moses & Singer LLP (collectively, the “Parties”), hereby stipulate and agree (the “Stipulation”) to the following:

1. On December 2, 2010, the Trustee filed and thereafter served the Complaint.
2. On August 4, 2011, Defendants served an answer on the Trustee.
3. Pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [ECF No. 3181 in Adv. Pro. No. 08-01789 (SMB)], the Parties entered into a Settlement Agreement and Release effective December 16, 2016 (the “Settlement Agreement”).
4. Pursuant to the terms of the Settlement Agreement and Release, and in accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal without prejudice of the Trustee’s claims against Defendants in the above-captioned adversary proceeding and dismissal of the adversary proceeding without prejudice, without costs to either Trustee or Defendants, and subject to the right of the Trustee to move *ex parte* to re-open this adversary proceeding or to seek entry of judgment pursuant to the Stipulation for Entry of Judgment in the event of an uncured default under the terms of the Settlement Agreement. Upon the Trustee’s receipt of the

¹ The definition of “Defendants” includes the Estate of Marion Leber in place of Marion Leber, per the Stipulation and Order for Substitution of Defendant dated March 5, 2014 (ECF No. 22) and excludes Robert Bandman in his capacity as Trustee, the same having been dismissed without prejudice by Stipulation and Order dated July 23, 2014 (ECF No. 24).

full Settlement Amount as set forth in the Settlement Agreement, and provided there is no default under the Settlement Agreement, this dismissal shall be deemed with prejudice.

5. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

6. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated: December 21, 2016

BAKER & HOSTETLER LLP

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*Attorneys for Defendants Steven E. Leber
Charitable Remainder Unitrust, Steven Leber, and
the Estate of Marion Leber*

SO ORDERED

/s/ STUART M. BERNSTEIN

HON. STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE

Dated: December 21st, 2016
New York, New York